

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
UNITED STATES OF AMERICA,	:	
	:	S1 11 Cr. 907 (JSR)
- against -	:	
RAJAT K. GUPTA,	:	
Defendant.	:	
	:	
-----X	:	

DEFENDANT'S PROPOSED VOIR DIRE QUESTIONS

Of Counsel:

Gary P. Naftalis
David S. Frankel
Robin M. Wilcox

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Attorneys for Defendant Rajat K. Gupta

A. Preliminary Questions

1. [Court's standard questions regarding capacity to serve and prior jury service]

B. Knowledge of the Case

2. Do any of you have any personal knowledge of this case? Have any of you ever read or heard anything about this case, or are you familiar with any news stories or Internet postings regarding a case involving Mr. Gupta?

3. Are you familiar with any new stories or Internet postings regarding a company called Goldman Sachs? Or a company called Procter & Gamble?

C. Knowledge of Trial Participants

4. The Government is represented here by the United States Attorney for the Southern District of New York, Preet Bharara. This trial will be in the immediate charge of Assistant United States Attorneys Reed Brodsky and Richard Tarlowe. They will be assisted by Special Agent [] of the FBI and [insert] who are legal assistants in the U.S. Attorney's office.

Do you know any of these individuals?

- Have any of you seen or heard any news stories or Internet postings about Mr. Bharara or his office?
- Have any of you or any close friend or relative had any dealings, either directly or indirectly, with any of these individuals I just mentioned or with the United States Attorney's Office?
- Do you have any feelings, bias, sympathy, or prejudice for or against the Government or the U.S. Attorney's office which would make it difficult for you to render a fair and impartial judgment based solely on the evidence presented at trial?

5. The defendant in this case is Rajat K. Gupta. Do any of you know, or have any of you had any dealings, directly or indirectly, with Mr. Gupta, or with any relative, friend or associate of Mr. Gupta?

- Have any of you read, seen or heard any news stories or Internet postings about Mr. Gupta?

- Do you have any feelings, bias, sympathy, or prejudice for or against Mr. Gupta which would make it difficult for you to render a fair and impartial judgment based solely on the evidence presented at trial?

6. Mr. Gupta served as a director of Goldman Sachs.

- Have any of you had any dealings, directly or indirectly, with Goldman Sachs?
- Have you purchased stock in Goldman Sachs?

7. Mr. Gupta also served as a director of Procter & Gamble.

- Have any of you had any dealings, directly or indirectly, with Procter & Gamble (not including simply buying Procter & Gamble products at a store)?
- Have you purchased stock in Procter & Gamble?

8. Mr. Gupta is represented by Gary Naftalis, David Frankel and Robin Wilcox of the law firm of Kramer Levin Naftalis & Frankel LLP. They will be assisted by technology specialist Ray McLeod. Do any of you know any of these individuals or have you had any dealings, either directly or indirectly, with them or anyone associated with their law firm?

9. There will be evidence at this trial about an individual named Raj Rajaratnam and about the Galleon Group of hedge funds. Do any of you know, or have any of you had any dealings, directly or indirectly, with Mr. Rajaratnam? With Galleon? Have any of you read, seen or heard any news stories or Internet postings about Mr. Rajaratnam? Or Galleon?

10. Do any of you know, or have any of you had any dealings, either directly or indirectly, with any of the following persons who may be mentioned or who may be witnesses in this case? [Schedule A attached].

11. Have you had any dealings with any of the following firms or companies that may be mentioned in this case? [Schedule B attached]

D. Nature of the Charges

12. During the trial, you will hear evidence about the financial industry, about the buying and selling of stocks and about hedge funds. Over the past few years there have been a lot of news articles about the role of hedge funds, investment banks, and other Wall Street firms and executives in the context of the recession that the country has been going through. Of course, many have been hurt by the recession and many of us have opinions as to whether someone is to blame for it and if so, who that might be. This case does not have anything to do with the recession or who is to blame for the financial problems we face. This case concerns only the specific charges against Mr. Gupta set forth in the indictment. And this case has to be decided fairly based only on the evidence you hear or see in this courtroom.

- Does the fact that the case involves the financial industry, Wall Street executives, hedge funds, and the like, make it difficult for anyone to render a fair verdict?

13. A lot of people on Wall Street make a lot of money. And you will hear evidence about multi-million dollar transactions. Does anyone think that evidence about wealthy individuals and multi-million dollar transactions will make it difficult for you to decide the case fairly?

14. Have any of you invested in securities such as stocks, bonds or options, or with mutual funds or hedge funds?

- Do any of you have views about whether the stock market is fair to all investors?
- Do any of you believe that the stock market favors particular types of investors?
- Have you, or any member of your family or close friend, had a negative experience with a stock brokerage firm or with any mutual fund or hedge fund?

- Will your experience as an investor or your views of the stock market affect your ability to be fair and impartial in this case?

15. Have any of you, or a relative or close friend worked in the financial industry for a bank, investment bank, broker, mutual fund or hedge fund? Will that fact affect your ability to be fair and impartial?

16. The case concerns allegations of a particular kind of conduct called “insider trading.”

- Have any of you read any news stories, books or articles, or seen or heard television shows, movies, radio programs or Internal postings about “insider trading”?
- Do you regularly read The Wall Street Journal? The New York Times? The New York Post? The New York Daily News? Time Magazine? Bloomberg BusinessWeek? The Financial Times?
- Does anyone have any feelings for or against the “insider trading” laws that would make it difficult to render a fair and impartial verdict in this case?

17. Have any of you seen or heard any advertisements or messages on television encouraging people to avoid “insider trading”?

18. Have any of you read or heard about any case—whether a prosecution, SEC enforcement action, or civil law suit—that included charges of insider trading? Or about any person who was accused of insider trading? Have you heard or read about any person who was convicted of insider trading?

19. Have any of you read or heard about any case in court that involved either the financial industry or investments related to the stock market?

20. The defendant and some of the individuals that may testify or be the subject of testimony are Americans who are of Indian heritage. Is there anything about this fact that would affect your ability to be impartial? Other witnesses or individuals that may be the subject of

testimony are Americans of Sri Lankan heritage. Is there anything about this fact that would affect your ability to be impartial?

E. Relationship with Government and Others

21. Do any of you know, or have any of you had any association with, any member of the staff of the United States Attorney's Office for the Southern District of New York, or any employee of any federal, state, or local law enforcement agency?

22. Have you, or any family member or close friend, ever been employed by the U.S. government or by any of its offices, departments, or agencies, such as the Internal Revenue Service (IRS), the Securities and Exchange Commission (SEC) or the Federal Bureau of Investigation (FBI)? Or by any state or local law enforcement agency?

23. Are you or do you have any close relatives or friends who are judges, law clerks, court attendants, court clerks, other types of court personnel, probations officers, or persons connected with any correctional institution, jail, or penitentiary?

24. Have you or a family member or any close friend ever been a member of any group that lobbies or takes positions on law enforcement issues?

25. Do you or any of your relatives or close friends work for a criminal defense lawyer or private investigator?

26. Have you or any family member ever been a part of any branch of the United States military or any other country's military? If so, what military branch did you serve in?

27. Have you, a family member, or a close friend ever attended law school or been a lawyer? Do you have any opinions about lawyers or law school that would make it difficult for you to render a fair and impartial verdict?

F. Experience as a Witness, Plaintiff, Defendant or Crime Victim

28. Have you, or has any member of your family or a close friend, ever been involved, or appeared as a witness in any investigation by a federal or state grand jury or by a Congressional or state legislative committee, licensing authority, or Governmental agency?

29. Have you, or any family member or close friend ever been involved or appeared as a witness in any investigations by the SEC, FINRA, the NASD, or the New York Stock Exchange, or been questioned in any matter by investigators for such agencies?

30. Have you, or has any member of your family or a close friend, ever been the subject of any investigation or accusation by any grand jury, federal or state, or by any legislative committee?

31. Have you, or any of your close friends or relatives, ever been questioned by any law enforcement officer, federal, state or local?

32. Have you, or has any member of your family or a close friend, ever been a witness or a complainant in any prosecution, or ever called a government agency to suggest that any person or company be investigated?

33. Are you, or is any member of your family or close friend, now under subpoena, or to your knowledge about to be subpoenaed in any criminal case?

34. Have you, or has any member of your family or a close friend, ever been charged with a crime?

35. Have you, or has any member of your family or a close friend, ever been a victim of a crime?

36. Have you, or any member of your family or close friend, been the victim of an investment or securities fraud?

37. Have you, or any member of your family or close friend, been a plaintiff or a witness in a civil law suit? Have you, or any member of your family or close friend, asserted a claim against a stock broker or any person or firm on Wall Street or in the financial industry?

G. General Questions/Legal Principles

38. Every defendant is presumed innocent and cannot be convicted unless the jury, unanimously and based solely on the evidence in this case, decides that his guilt has been proven beyond a reasonable doubt. It is said that a defendant begins with a "clean slate." The burden of proving guilt rests entirely with the Government. The defendant has no burden of proof at all. This remains true throughout the trial. Would any of you have any difficulty following these rules?

39. Under the law, an indictment is merely a list of the formal charges, but is not considered proof of wrongdoing. The fact that a defendant is indicted is entitled to no weight at all in deciding whether a defendant is innocent or guilty. Can you accept this principle?

40. Under our system of law, the jury determines the facts and the Court determines the law. These two areas are separate and distinct. At the end of the case, I will instruct you on the law. You are required to accept the law as I explain it to you. It will be your job to determine the facts subject to my explanation of the law. Is there anyone who feels he or she is either unwilling or unable to apply the law as the Court explains it to you?

41. Under the law, the defense will decide whether or not the defendant will testify. If the defendant does not testify, the jury cannot draw any unfavorable inference against the defendant based on that decision. That fact may not enter into the jury's deliberation. Would you have any difficulty in following this principle?

42. Under the law the defendant is under no obligation to present any evidence or case on his own behalf. If the defendant elects not to present any evidence, the jury may not draw any adverse inference against the defendant based on that decision. That fact may not enter into the jury's deliberation. Would you have any difficulty in following this principle?

43. Conversely, should defense counsel decide to put on a case on the defendant's behalf, that fact does not shift the burden of proof to the defendant, nor does it diminish the obligation of the Government to prove the defendant's guilt beyond a reasonable doubt. Would you have any difficulty in following this principle?

44. The law provides that only the evidence here in court may be used by you to determine whether the Government has met its burden of proving a defendant's guilt beyond a reasonable doubt. Is there anyone who has difficulty accepting that law?

45. The law provides that the question of punishment is for the Court alone to decide. The question of possible punishment should not enter into your deliberation as to the guilt or innocence of a defendant. Is there any juror who cannot follow that instruction?

46. Is there any juror who feels that if the evidence does not establish defendant's guilt beyond a reasonable doubt, he or she might be unable to render a verdict of not guilty?

47. Do you have any religious, philosophical, moral, or other belief that might make you unable to render a guilty or not guilty verdict for reasons unrelated to the law and the evidence?

H. View on Witnesses and Evidence

48. Officers. The witnesses in this case will include law enforcement officers. Their testimony is not entitled to any greater weight simply because they are law enforcement officers. Would you have any difficulty following that instruction?

49. Accomplice Witnesses: You may hear testimony in this case from accomplice witnesses, that is, witnesses who at one time were involved in illegal activity, but who have now pled guilty to various crimes and are testifying on behalf of the Government pursuant to a cooperation agreement. These witnesses may be referred to as accomplice witnesses. Do any of you have any experience with or feelings about the use of accomplice witnesses generally, or the use of evidence or information obtained from such witnesses, which would make it difficult for you to render a fair and impartial verdict?

50. Recorded Telephone Calls/Wiretaps: You may hear evidence of telephone conversations of the defendants that were monitored and recorded. Do any of you have any views about the use of recorded telephone calls or wiretaps as evidence that might influence your thinking about the case?

51. Persons Not on Trial: The defendant is charged with acting with others. Those other individuals are not on trial here. You may not draw any inference, favorable or unfavorable, towards the Government or the defendant from that fact. A defendant may never be convicted on the basis of guilt by association. You also may not speculate as to the reason why other persons are not on trial. Is there any juror who cannot follow this interpretation or who for this reason would have difficulty rendering a fair and impartial verdict?

* * *

In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior questions, does any juror

have the slightest doubt in his or her mind, for any reason whatsoever, that he or she will be able to serve conscientiously, fairly, and impartially in this case and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it will be explained?

I. Questions for Individual Jurors

Now, let me find out some general information about each juror.

Starting with Juror No. 1:

1. Please state your name, age, and county of residence during the past 5 years.
2. How far did you go in school?
3. What is your current occupation or business? (If retired or unemployed, describe your last employment.)
 - a. How long have you been with that employer?
 - b. What is the nature of your work?
4. Where else have you been employed during the past five years?
5. Who are the members of your household?
6. What do any members of your household do for a living?
7. Have you ever invested in the stock market?
8. Have you ever relied on the advice of a broker or others to help you make investment decisions?
9. Have you invested in mutual funds? Purchased shares of stock in specific companies? Purchased options to purchase or sell shares of stock? Ever sold short shares of stock?
10. Have you ever made or lost so much money all at once that it changed your lifestyle?

11. What is the main way you get news—that is, the type of news reported on in newspapers, on television and on websites?

12. What magazines and newspapers do you regularly read?

13. What TV shows do you regularly watch?

14. What Internet sites do you regularly visit?

15. How do you like to spend your free time?

SCHEDULE A

(Persons Who Might Be Mentioned or Might Testify)

Ashok Alexander
Ayad Alhadi
Judith Allen
Norman R. Augustine
James Barnacle
Suprotik Basu
Mark Belgya
Charles Benziger
Lila Bibi
Lloyd Blankfein
Barry Bloom
Danielle Brown
John H. Bryan
Warren Buffet
Bruce L. Byrnes
Michael Cardillo
Raymond Chambers
Kenneth Chenault
Deepak Chopra
Gary Cohn
Scott D. Cook
James Covello
Claes Dahlback
Aaron Deuser
Mark Dybul
Caryn Eisenberg
Richard Feachem
Dulce Frias
Jason Friedman
Stephen Friedman
Helene Gayle
Bill George
Renee Gomes
Aditi Gupta
Anita Gupta
Deepali Gupta
Geetanjali Gupta
Megha Gupta
John Henderson
Herbert Henzler
Ian Horowitz

Donald Jacobs
Ajit Jain
James A. Johnson
Lois Juliber
B.J. Kang
William Keaton
Henry King
Anil Kumar
A.G. Lafley
David Lau
George Lau
Charles R. Lee
Edward M. Liddy
David Loeb
Isvari Mahadeva
Savita Mahajan
Lynn M. Martin
John Marvin
Kevin McGrath
Heather Miner
Lakshmi Mittal
Jon Moeller
Guy Moszkowski
Ananth Muniyappa
John O'Connor
Gregory Orman
Jennifer Padovani
Ranjit Pandit
Steven Peiken
Alexander Pena
Stephen Pierce
Timothy Pierotti
Kathleen Queally
Ragakanthan "R.K." Rajaratnam
Ajit Rangnekar
Shireen Gianchandani Reddy
Jeffrey Roberts
Jonathan A. Rodgers
Gary Rosenbach
James Roth
Gina Santaniello
Sanjay Santhanam
Richard "Rick" Schutte
Parag Saxena
Mark Schwartz
Steven Schwarzwaelder

Raina Shakhder
Leon Shaulov
Carolann Shields
Pramath Sinha
Ruth J. Simmons
Adam Smith
Andrew Smith
John Smith
Dr. Ralph Snyderman
Anil Sood
Kevin Steinberg
Todd Summers
Valerie Szczepanik
Anita Teglas
Ravi Trehan
Byron Trott
Brock Vandervliet
David Viniar
Ed Wasserstrom
Heather Webster
Diane Wehner
Margaret C. Whitman
Meredith Whitney
Jon Winkelreid
Patricia Woertz
Joe Yanigasawa
Jogalingam Yogakumar
Dr. Ernesto Zedillo
Thomas Zukauskas

SCHEDULE B
(Companies and Firms That Might Be Mentioned)

Akin Gump Strauss Hauer & Feld LLP
AIG
Berkshire Hathaway
BroadStreet Capital Partners
The Galleon Group, Ltd. and other entities with Galleon in the title
GB Voyager Fund, Ltd.
GB Voyager Multi-Strategy Fund SPC, Ltd.
GlobeOp
Goldman Sachs
JP Morgan
J.M. Smucker Company
KKR & Co. (previously known as Kohlberg, Kravis, Roberts & Co.)
McKinsey & Company
Procter & Gamble
Rothstein Kass
SNR Denton
Sonnenschein Nath & Roth
Sullivan & Cromwell
Voyager BCP
Voyager Capital Partners, Ltd.
Wachovia